

# **Filing an Amortization of Debt (Chapter 128) Case in Milwaukee County**

This guide is designed to help people who do not have attorneys who are filing an amortization of debt case in Milwaukee County. Nothing in this document is intended to be taken as legal advice. If you are seeking legal advice, or have questions regarding your specific situation, you should consult with an attorney.

## **What is an amortization of debt action?**

Amortization of debt actions (often called “Chapter 128” actions, after the chapter of the Wisconsin Statutes in which it is contained) allow a Wisconsin resident with a steady income (this statute applies to “[a]ny person whose principal source of income consists of wages or salary”) to pay certain debts in full through monthly payments over a period of not longer than three (3) years.

## **What is the difference between amortization of debt and bankruptcy?**

Unlike a Chapter 7 bankruptcy, an amortization of debt action does not discharge (or wipe out) debt without payment. All included debts must be paid in full via the payment (amortization) plan. The amortization plan is more like a Chapter 13 bankruptcy plan. However, there are many differences between bankruptcy and amortization. To understand the differences and which is best for you, you may wish to seek the advice of an attorney. The Milwaukee Bar Association’s lawyer referral service number is 414-274-6768.

## **Does an amortization of debt action protect me from my creditors?**

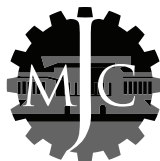
Any creditor included in a court-approved amortization of debt order cannot garnish your wages, or bank accounts, or otherwise try to collect on the debt. The creditor CAN, however, still file a lawsuit and obtain a judgment against you in court, if the creditor has not already done so. Additionally, if you do not follow through with making the payments, and the case is dismissed, or if the included debt is not paid off after the end of the three (3) year period, the creditors can resume debt collection efforts. See Wisconsin Statute §128.21.

## **What types of a debt can I include?**

Generally, you can include any unsecured debt, such as late rent, past due utility bills, payday loans, credit cards, medical bills, accounts in collection, etc. You usually cannot include secured debt, such as a car payment or mortgage, UNLESS the creditor agrees. However, remember that the plan must result in all included debts being paid off in three (3) years, so large debts may not be appropriate for amortization.

## **Do I need an attorney?**

An attorney can help you determine if an amortization of debt is right for you and, if so, what debts can and should be included. An attorney can also handle the paperwork and procedures. Some attorneys will agree to have their fees included as part of the debt that is paid in monthly installments. If you are interested in getting a referral to an attorney who handles these types of cases, call the Milwaukee Bar Association’s lawyer referral service. Their phone number is 414-274-6768. However, you are not required to have an attorney to file an amortization of debts case.



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**MILWAUKEE JUSTICE CENTER**  
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## **What is a Trustee and how do I find one?**

The Trustee is a neutral, third party who oversees the collection of money and makes payments to the creditors. In Milwaukee County, the Trustee will be randomly assigned by the court. The Trustee is paid a pre-determined percentage of the total debt and the fee is included in the monthly payments.

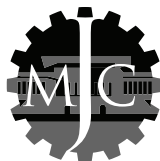
## **How do I file an amortization of debt action in Milwaukee County?**

In this packet are forms approved for use in Milwaukee County, as well as filing directions.

## **Can I get help filling out the forms?**

Scroll down to see the packet of forms for filing a Chapter 128 Amortization of Debts. These forms are also available at the Legal Resource Center in Room G-10-1 of the Milwaukee County Courthouse.

Help filling out the forms is provided only at the Milwaukee Justice Center's Brief Legal Advice clinics, which are in Room G-9 of the Milwaukee County Courthouse. These clinics are scheduled every Thursday and Friday from 2:00pm until 4:00pm. Help is only provided on a first-come-first-served basis. We do not schedule appointments for help with Chapter 128 filings.

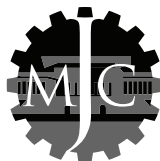


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## Checklist

1. Fill out a Petition to Amortize Debts (Form CV 5)
  - A. You must include your name and address as debtor (and your spouse's if you are filing together).
  - B. In paragraph 2, you must list an employer. As this statute applies to people whose principal source of income is wages or salary, petitions that do not list a valid employer are unlikely to be approved.
  - C. In paragraph 6, you must choose either that the court order payment to the Trustee from your employer by payroll deduction or the court order that you will pay the Trustee directly.
  - D. You must SIGN the document in front of a notary. Notaries are available in Room 104 of the Courthouse.
2. Fill out an Affidavit of Debts (Form CV 6)
  - A. The affidavit must list all of the creditors to be included in the plan, by name and address.
  - B. It must list the total amount due each creditor.
  - C. It must include a total of all the debts to be included in the plan.
  - D. You must SIGN the document in front of a notary. Notaries are available in Room 104 of the Courthouse.
3. Fill out an Order Appointing Trustee and Enjoining Creditors (Form CV7)
  - A. It must include the requested Trustee information. The court will assign you a Trustee when you file.
  - B. You must choose either that the court order payment to the Trustee from your employer by payroll deduction or that the court order that you will pay the Trustee directly.
  - C. You must include a proposed amount to be deducted from your paycheck and paid by your employer to the Trustee per paycheck OR a monthly amount to be paid by you directly to the Trustee.
4. Make 2 copies of the Petition to Amortize Debts, 2 copies of the Affidavit of Debts and 2 copies of the Order Appointing Trustee and Enjoining Creditors. A copy machine is available in Room G10-1 of the Courthouse (Legal Resource Center) for 20 cents a page.
5. Prepare two (2) stamped envelopes
  - A. One will be addressed to the Trustee, so the court can send the Trustee the petition, affidavit, and order appointing Trustee. You will get the Trustee's address when you file your papers.
  - B. One should be addressed to you, so you can receive a signed order from the court.
6. File your papers in Room 104 and pay the \$35 filing fee. In addition to the fee, make sure you have the following:
  - A. The original and one copy of your Petition to Amortize Debts
  - B. The original and one copy of your Affidavit of Debts
  - C. The original and two copies of the Order Appointing Trustee and Enjoining Creditors
  - D. Your two stamped envelopes, one addressed to you and one addressed to the Trustee.



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In the Matter of the Voluntary Amortization of Debts of:

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Debtor(s) – Name

Case No. \_\_\_\_\_

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Address

Code No. 30304

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City

State

Zip

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**Petition to Amortize Debts under Wis. Stat. §128.21**

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1. Debtor(s) is/are adult resident(s) of Milwaukee County, Wisconsin, residing at

\_\_\_\_\_  
\_\_\_\_\_ (state address).

2. Debtor(s) is/are employed by

\_\_\_\_\_  
\_\_\_\_\_ (state full name and address of each employer).

3. Debtor(s) is/are indebted beyond debtor's(s') ability to pay debts as they mature, and the assistance of the court is needed in the amortization of such indebtedness pursuant to Wis. Stat. § 128.21.
4. Debtor(s) believe(s) that unless the assistance of the court is obtained for the amortization of indebtedness pursuant to Wis. Stat. §128.21, creditors will continue to harass debtor by the issuance of garnishment, attachment or execution.
5. Debtor(s) is/are of the opinion and belief that debtor will be able to make future payments at regular intervals according to a plan of amortization so as to amortize debtor's indebtedness over a period of not more than three (3) years.
6. Debtor(s) request(s) that (choose one):
- ☐ the court enter an order that a portion of debtor's(s') payroll checks be assigned directly to the Trustee in this proceeding in an amount set forth in the proposed order submitted with this petition.
- ☐ debtor(s) pay(s) to the Trustee directly an amount set forth in the proposed order submitted with this petition.
7. Attached is/are my(our) affidavit of debts to be included in the plan.
8. Debtor(s) request(s) to be permitted to amortize debts pursuant to Wis. Stat. §128.21, and that a plan of amortization as may be proposed by the Trustee and submitted to the creditor(s) be approved by the court.
9. Debtor(s) has/have submitted a proposed Order appointing the Trustee and enjoining the creditors listed in this petition from further collection procedures.

\_\_\_\_\_  
Debtor Name

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My commission expires \_\_\_\_\_, 20\_\_\_\_\_  
or is permanent

\_\_\_\_\_  
Debtor Name

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My commission expires \_\_\_\_\_, 20\_\_\_\_\_  
or is permanent

If debtor(s) is/are represented by an attorney, the attorney must complete the following:

Dated: \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature

Name, Bar number, address, phone and email address:

**Note:** Include two (2) stamped envelopes – one addressed to Trustee (name and address will be filled in by the court) and one to Debtor's(s') attorney or, if no attorney, to Debtor(s)

In the Matter of the Voluntary Amortization of Debts of:

\_\_\_\_\_  
Debtor(s)

Case No. \_\_\_\_\_  
Code No. 30304

**Affidavit of Debts under Wis. Stat. §128.21**

State of Wisconsin     )  
                                      ) SS  
Milwaukee County     )

\_\_\_\_\_ ((Debtor's(s') name)), being first duly sworn upon oath, depose(s) and state(s):

He/she/they is/are the debtor(s) in the above-entitled proceeding. The following is a true list of the debts debtor(s) desire(s) to be included in the amortization plan to be formulated by the Trustee.

*Instructions:*

1. List each creditor by name and address and identify any account number you have for that creditor unless there would be an identity theft issue, i.e. the account number is a social security number.
2. List the amount due each creditor.
3. List a total of all debts to be included in the plan.
4. Each debtor must sign and each signature must be notarized.
5. Attach additional sheets if necessary to complete the list.

**List of Creditors and Debts:**

Name of Creditor	Address of Creditor (incl. city, state, zip)	Account Number	Amount Due


☐ Check box if additional pages attached

**TOTAL AMOUNT INCLUDED IN PLAN**

\$\_\_\_\_\_

\_\_\_\_\_  
Debtor Name

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My commission expires \_\_\_\_\_, 20\_\_\_\_\_  
or is permanent

\_\_\_\_\_  
Debtor Name

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin

My commission expires \_\_\_\_\_, 20\_\_\_\_\_  
or is permanent

In the Matter of the Voluntary Amortization of Debts of:

\_\_\_\_\_  
Debtor(s) Name and address

Case No. \_\_\_\_\_

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**Order Appointing Trustee and Enjoining Creditors**

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This matter is before the court on petition of the debtor(s) listed above for the amortization of indebtedness pursuant to Wis. Stat. § 128.21.

NOW THEREFORE, IT IS ORDERED, that:

1. The petitioner(s) are allowed to proceed with the amortization of debts pursuant to the provisions of Wis. Stat. § 128.21.
- 2.

is appointed Trustee in this proceeding. The Trustee is directed to comply with Wis. Stat. §§ 128.21(3) and (3g).  
(Clerk will stamp original and copies)

3. No distributions shall be made before a plan is approved.
4. Upon the filing of this Order and while the case is proceeding, no execution, attachment, activation of wage assignment or garnishment may be initiated or enforced by creditors of the above-named debtor unless such creditor is not included in the plan.
5. Choose one:
  - ☐ As requested by the debtor in the petition filed with the court, debtor's employer, \_\_\_\_\_ (list employer) or debtor's current employer, shall, until otherwise directed by the Trustee or further order of the court, deduct \$ \_\_\_\_\_ from each of debtor's payroll checks and mail that sum directly to the Trustee named above.
  - ☐ The debtor shall, until otherwise directed by the Trustee or further order of the court, pay directly to the Trustee, named above, the sum of \$ \_\_\_\_\_ monthly, on or before 15 days after the date of this order.

Dated: \_\_\_\_\_. 20\_\_\_\_.

BY THE COURT:

\_\_\_\_\_  
Circuit Court Judge